

that a long-form application has been accepted for filing, petitions to deny that application may be filed. Any such petitions must contain allegations of fact supported by affidavit of a person or persons with personal knowledge thereof.

(c) An applicant may file an opposition to any petition to deny, and the petitioner a reply to such opposition. Allegations of fact or denials thereof must be supported by affidavit of a person or persons with personal knowledge thereof. The time for filing such oppositions shall be five (5) days from the filing date for petitions to deny, and the time for filing replies shall be five (5) days from the filing date for oppositions.

(d) If the Commission denies or dismisses all petitions to deny, if any are filed, and is otherwise satisfied that an applicant is qualified, a public notice will be issued announcing that the broadcast construction permit(s) or ITFS license(s) is ready to be granted, upon full payment of the balance of the winning bid(s). See 47 CFR 73.5003(c). Construction of broadcast stations or ITFS facilities shall not commence until the grant of such permit or license to the winning bidder.

§ 73.5007 Designated entity provisions.

New entrant bidding credit. A winning bidder that qualifies as a “new entrant” may use a bidding credit to lower the cost of its winning bid on any broadcast construction permit. A thirty-five (35) percent bidding credit will be given to a winning bidder if it and/or its owners have no recognizable interest (more than fifty (50) percent or de facto control) in the aggregate, in any other media of mass communications. A twenty-five (25) percent bidding credit will be given to a winning bidder if it and/or its owners, in the aggregate, have a recognizable interest in no more than three mass media facilities. No bidding credit will be given if any of the commonly owned mass media facilities serves the same area as the proposed broadcast station, or if the winning bidder and/or its owners have recognizable interests in more than three mass media facilities.

(a) The new entrant bidding credit is not available to applicants that con-

trol, or whose owners control, in the aggregate, more than fifty (50) percent of any other media of mass communications in the same area as the proposed broadcast facility. The facilities will be considered in the “same area” if the following defined areas wholly encompass, or are encompassed by, the proposed broadcast or secondary broadcast facility’s relevant contour:

(1) AM broadcast station—predicted or measured 2mV/m groundwave contour (see 47 CFR 73.183 or 73.186);

(2) FM broadcast or FM translator station—predicted 1.0 mV/m contour (see 47 CFR 73.313);

(3) Television broadcast station—Grade A contour (see 47 CFR 73.684);

(4) Low power television or television translator station—the predicted, protected contour (see 47 CFR 74.707(a));

(5) Cable television system—the franchised community of a cable system;

(6) Daily newspaper—community of publication; and

(7) Multipoint Distribution Service station—protected service area (see 47 CFR 21.902(d) or 21.933).

(b) *Unjust enrichment.* If a licensee or permittee that utilizes a new entrant bidding credit under this subsection seeks to assign or transfer control of its license or construction permit to an entity not meeting the eligibility criteria for the bidding credit, the licensee or permittee must reimburse the U.S. Government for the amount of the bidding credit, plus interest based on the rate for ten-year U.S. Treasury obligations applicable on the date the construction permit was originally granted, as a condition of Commission approval of the assignment or transfer. If a licensee or permittee that utilizes a new entrant bidding credit seeks to assign or transfer control of a license or construction permit to an entity that is eligible for a lower bidding credit, the difference between the bidding credit obtained by the assigning party and the bidding credit for which the acquiring party would qualify, plus interest based on the rate for ten-year U.S. Treasury obligations applicable on the date the construction permit was originally granted, must be paid to the U.S. Government as a condition of Commission approval of the assignment or transfer. The amount of the

reimbursement payments will be reduced over time. An assignment or transfer in the first two years after issuance of the construction permit to the winning bidder will result in a forfeiture of one hundred (100) percent of the value of the bidding credit; during year three, of seventy-five (75) percent of the value of the bidding credit; in year four, of fifty (50) percent; in year five, twenty-five (25) percent; and thereafter, no payment. If a licensee or permittee who utilized a new entrant bidding credit in obtaining a broadcast license or construction permit acquires within this five-year reimbursement period an additional broadcast facility or facilities, such that the licensee or permittee would not have been eligible for the new entrant credit, the licensee or permittee will not be required to reimburse the U.S. Government for the amount of the bidding credit.

§ 73.5008 Definitions applicable for designated entity provisions.

(a) *Scope.* The definitions in this section apply to 47 CFR 73.5007, unless otherwise specified in that section.

(b) A *medium of mass communications* means a daily newspaper; a cable television system; or a license or construction permit for a television station, a low power television or television translator station, an AM, FM or FM translator broadcast station, a direct broadcast satellite transponder, or a Multipoint Distribution Service station.

(c) The *owners* of a winning bidder shall include the winning bidder, in the case of a sole proprietor; partner, including limited or "silent" partners, in the case of a partnership; the beneficiaries, in the case of a trust; any member, in the case of a nonstock corporation or unincorporated association with members; any member of the governing board (including executive boards, boards of regents, commissions, or similar governmental bodies where each member has one vote), in the case of nonstock corporation or unincorporated association without members; and owners of voting shares, in the case of stock corporations.

§ 73.5009 Assignment or transfer of control.

(a) The reporting requirement contained in 47 CFR 1.2111(a) shall apply to an applicant seeking approval for a transfer of control or assignment of a broadcast construction permit or license within three years of receiving such permit or license by means of competitive bidding.

(b) The ownership disclosure requirements contained in 47 CFR 1.2112(a) shall apply to an applicant seeking consent to assign or transfer control of a broadcast construction permit or license awarded by competitive bidding.

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